

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

KHARVELL LEWIS,

Plaintiff,

v.

Case No. 23-cv-10326
Hon. Matthew F. Leitman

TURNWALD *et al.*,

Defendant.

/

ORDER TERMINATING
REPORT AND RECOMMENDATION (ECF No. 27) AS MOOT

Plaintiff Kharvell Lewis is a state prisoner in the custody of the Michigan Department of Corrections. In this action, Lewis alleges that he was assaulted by prison guards following an altercation in the prison laundry room. (*See* Compl., ECF No. 1.)

On May 31, 2024, the assigned Magistrate Judge issued an order requiring the Defendants to file a response to the Complaint. (*See* Order, ECF No. 19.) That same day, the Magistrate Judge mailed a copy of that order to Lewis at the address he had provided the Court. (*See* Dkt.) That mailing returned to the Court as undeliverable. (*See* ECF No. 22.) That suggested that Lewis had failed to provide the Court an updated mailing address. The Magistrate Judge therefore issued an order that directed Lewis to show cause why the Court should not dismiss this action due to

his failure to provide the Court updated contact information as required under the Court's local rules. (*See* Order, ECF No. 23.) That too returned to the Court as undeliverable, as did a second show cause order that the Magistrate Judge issued. (*See* Orders, ECF Nos. 23, 25.) Accordingly, on September 5, 2024, the Magistrate Judge issued a report and recommendation in which he recommended that the Court dismiss this action due to Lewis' failure to comply with the Court's local by providing the Court valid contact information (the "R&R"). (*See* R&R, ECF No. 27.)

On September 26, 2024, Lewis filed an objection to the R&R. (*See* Obj., ECF No. 31.) Lewis explained the MDOC had repeatedly moved him to different prisons, and he accused the MDOC of deliberately not providing him his mail. (*See id.*) He also provided the Court his current address. (*See id.*)

The objection provides the Court new information that was not available to the Magistrate Judge. Based on that information, and developments that have occurred after the Magistrate Judge issued the R&R, the Court is persuaded that this action should not be dismissed at this time. The Court will therefore **TERMINATE** the R&R as moot and allow the case to proceed against the Defendants. The Court reminds Lewis that it is his obligation to provide the Court prompt notice if or when he moves prisons and that it is his responsibility moving forward to maintain current

contact information with the Court so that the Court can administer this action. If he fails to do so, the Court may dismiss his Complaint.

IT IS SO ORDERED.

s/Matthew F. Leitman

MATTHEW F. LEITMAN

UNITED STATES DISTRICT JUDGE

Dated: October 1, 2024

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on October 1, 2024, by electronic means and/or ordinary mail.

s/Holly A. Ryan

Case Manager

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